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SUBJECT: KARBALA JAM CASES UNDERSCORE JUDICIAL PROGRESS

REF: BAGHDAD 2861

This is a PRT Karbala Reporting Cable

[¶1.](#) (SBU) Summary: A Karbala court on October 20 convicted two Jaysh al-Mahdi (JAM) members of possessing improvised explosive devices (IEDs) and sentenced them to life in prison. Days earlier, the same court acquitted five JAM members accused of setting fire to police vehicles during the violence that marred the Shabaniyah observances in August [¶2007](#). The two cases illustrate the provincial judiciary's growing confidence and ability to adjudicate sensitive cases in accordance with the facts, auguring well for long-term stability and a fair and independent judiciary in Karbala Province. End Summary.

Zero Tolerance for Terror -----

[¶2.](#) (U) On October 20, Karbala's Major Crimes Court sentenced two JAM members to life in prison for possessing IEDs. Evidence showed that the men, ages 24 and 27, possessed 23 IEDs in their residence when they were arrested in April 2008, and were conspiring to commit terrorist acts. In handing down the life sentences, the judge signaled Karbala Province's zero-tolerance approach toward terrorism. Unfortunately, the trial was not reported in the local media, thus reducing its potential general deterrent effect.

[¶3.](#) (U) The sentences were consistent with the court's high-profile conviction on August 28, 2008, of Ali Abd al-Ta'an, aka "Ali Shariah." He and the gang of JAM thugs he led were found to have committed numerous murders and assaults culminating in the deadly violence that marred the Shabaniyah observances here in August, 2007 (reftel). Abd al-Ta'an was sentenced to death.

JAM Membership Not a Crime -----

[¶4.](#) (U) Days before the conviction of the two JAM members, Karbala's Major Crimes Court in mid-October acquitted five defendants accused of setting fire to police vehicles during the previous year's Shabaniyah mayhem. The defendants were arrested in December 2007, and remained in custody until the trial. The only evidence presented against them was their confessions, which the men alleged were extracted through torture (one described being hung upside down by his feet, another said his toenails had been pulled out).

[¶5.](#) (U) The judge ruled that there was credible evidence that some of the men had been tortured. In addition to the court-assigned defense attorneys' passionate pleas for acquittal, the prosecutor argued that the five should be freed. In acquitting the defendants, the presiding judge ruled that neither supporting Muqtada al-Sadr nor JAM affiliation are illegal. He further noted that the JAM is not a terrorist organization under Iraqi law. Upon their acquittal, the jubilant defendants began chanting "tahya

al-adala!" -- long live justice.

Comment

¶6. (SBU) Karbala's judicial system continues to impress as it matures. While serving notice that terror and violence will not be tolerated, the court also has affirmed that cases will be judged on the basis of the facts, with "evidence" acquired through coercion deemed to be of little probative value. The progress made by Karbala's third branch of government augurs well for public confidence in the rule of law and, as a result, for long-term stability in the province. Such positive effects are mutually supportive. In his conversations with the PRT's Rule of Law Advisor, Karbala Chief Appellate Judge Abid Nour Farhan al-Fatlawi has credited the improved security situation here with enabling the justice system to function independently. End Comment.
CROCKER